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Law Office of Stephen Cannavale  
3 Hanlan Road  
Caldwell, NJ 07006

EXAMINER
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TALBOT, MICHAEL

ART UNIT	PAPER NUMBER
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3722

MAIL DATE	DELIVERY MODE
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09/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/816,362	Applicant(s) MERZON, ADAM	
	Examiner Michael W. Talbot	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: (a) "latch receiver 86" first recited on page 7 of 17, line 17. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Applicant may however elect to delete the character reference(s) from the specification in lieu of adding them to the drawings.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "110" and "114" shown in Figs. 8 and 9 have both been used to designate "binder anchors". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement

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drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "paper straightening structure: recited in claims 26 and 27 must be shown and/or indexed or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4. Claims 1,3 and 27 are objected to because of the following informalities:

Claim 1 recites the limitation "said spine" in two occurrences in line 4 and again in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "said spine" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 27, line 2, the phrase "said paper straitening structure" should be changed so as to read --said paper straightening structure--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 1, lines 5-8, a first set of binders "permanently fixed at a second location", which is not disclosed in the specification. Since Applicant has not disclosed the term

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"permanently", or how the binders are "permanently fixed" in the specification, the Examiner deems this limitation as new matter. The specification states on page 7 of 17, second paragraph, that the binders are held "by a plurality of spaced apart fasteners 72, 74, each of which "preferably" is a rivet", however, it is well-known in the art to have rivets which are not fixed and are removable.

Claim 1, also discloses the limitation of a hinge having an "extreme boundary" which is also not disclosed in the specification, and is considered new matter.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, are rejected under 35 U.S.C. 102(b) as being anticipated by Lehnert (DE-4339929C1). Lehnert discloses in Figs. 1-4, a binder arrangement comprising: a pair of covers (1 and 2) each carried by an abutting spine (3); a first binder (4 on left side) permanently fixed and carried by one of the covers (1); and a second binder (4 on right side) permanently fixed and carried by the other cover (2); wherein the pair of covers are hingedly carried by the spine (3), and constructed with a pivoting surface that pivots 90 degrees against the spine; wherein one of the binders is offset from the other one of the binders such that the binders do not overlap each other when in a closed position (see Fig. 2); and wherein one of the binders can be spaced away from a centerline of the spine (also see Fig. 2) at various positions.

***Claim Rejections - 35 USC § 103***

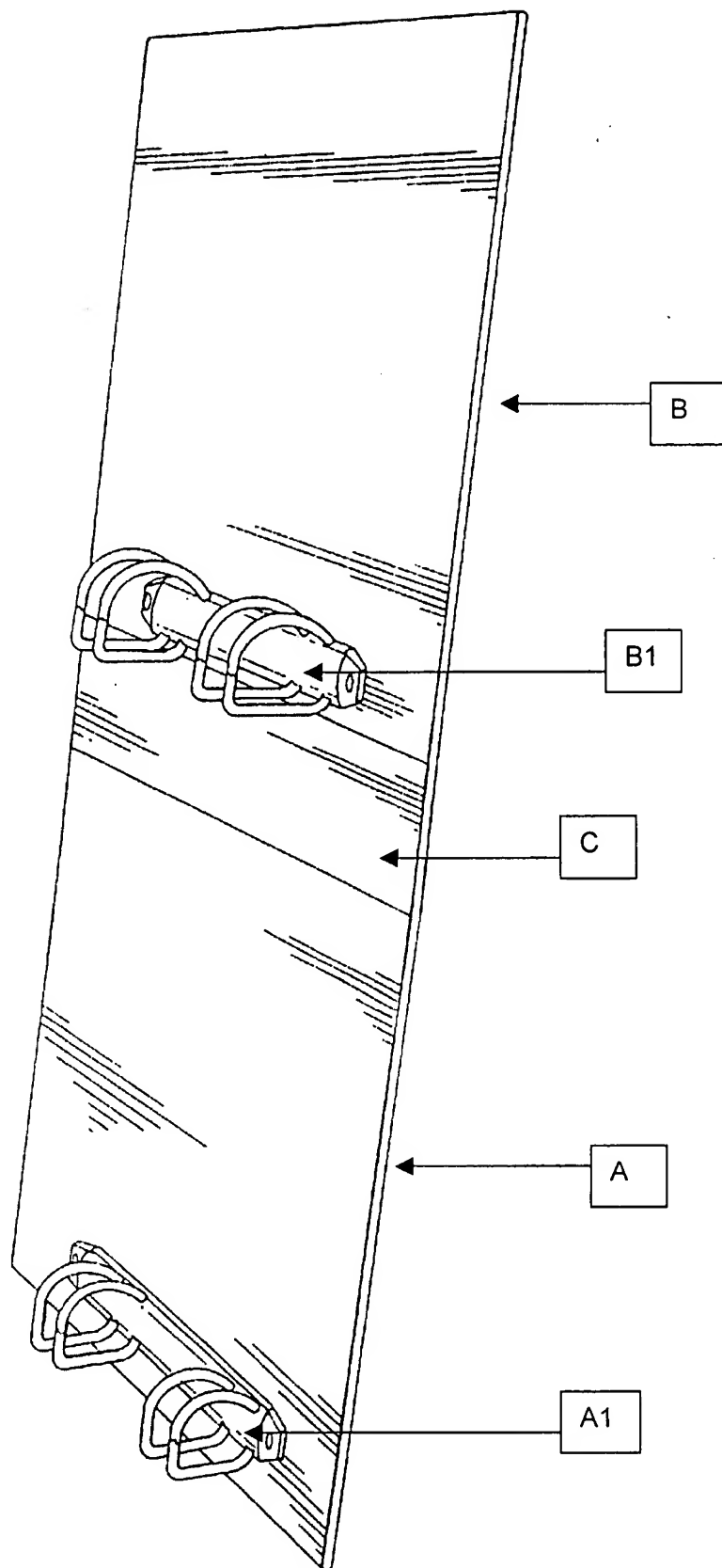
9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-5 and 25-27, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto (D467,966) in view of Lehnert. Lepisto discloses in Fig. 2 below, a binder arrangement comprising: a pair of covers (A and B) each hingedly carried by an abutting extreme boundary of a hinge (C); each of the covers constructed with a pivoting surface that pivots 90 degrees against the hinge (see Fig. 1); a first set of binders (A1) permanently fixed at a location and parallel to the hinge and carried by one of the covers (A); a second set of binder (B1) permanently fixed at a location and adjacent and parallel to the hinge by the other one of covers (B); wherein the binder are offset from one another and do not overlie each other when the arrangement is disposed in a closed position (see Fig. 1); and wherein the binders also include a plurality of D-shaped ring paper straightening fastening mechanisms (see Fig. 2). However, Lepisto does not disclose: wherein the first set of binders are adjacent to the hinge; wherein the one of the binders is offset relative to the other one such that one binder is spaced farther away from a centerline of the hinge than the other one of the binders; wherein the offset is between 1/4 of an inch and 3/4 of an inch; wherein the offset is 1/2 of an inch.

Fig. 2





Lehnert discloses in Fig. 2, a binder arrangement wherein a set of binders can be placed at any desirable arrangement location on the cover as desired by the end user. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lepisto's binder with a binder location that can be placed any desirable location on the cover as taught by Lehnert for providing a cover having a binder location at any point on the cover as desired by applicant.

In regards to claims 3-5, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the offset at any desirable range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, it would have been obvious to construct the binder offset at any desirable range, since applicant has not disclosed the criticality of the having the offset with a particular distance range, and invention would function equally as well with any desirable offset distance.

11. Claims 4 and 5, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehnert. Lehnert discloses a binder arrangement comprising all the elements as disclosed in claim 1, and as set forth above. However, Lehnert does not disclose: wherein the offset is between one quarter of an inch and three-quarters of an inch; wherein the offset is about one-half an inch.

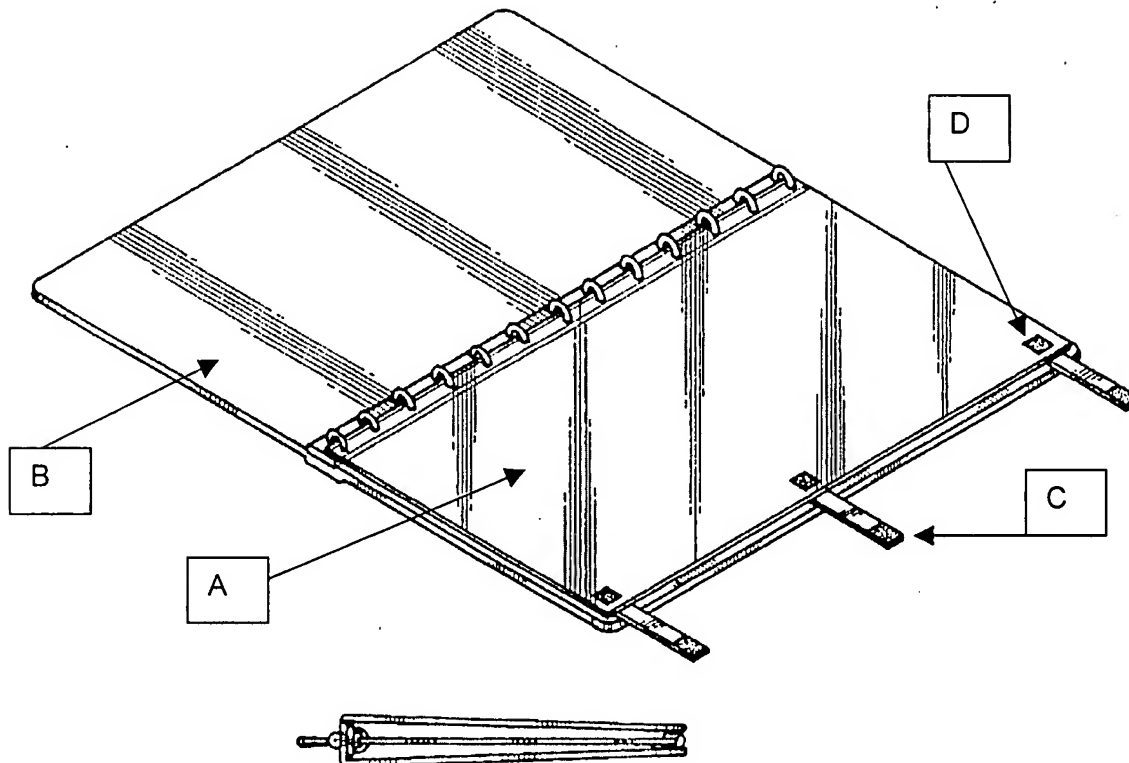
In regards to claims 4 and 5, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the offset at any desirable range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, it would have been obvious to construct the binder offset at any desirable range, since applicant has not

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disclosed the criticality of the having the offset with a particular distance range, and invention would function equally as well with any desirable offset distance.

12. Claims 6-9 and 21, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehnert in view of Zimbelman (D364,640). Lehnert discloses a binder arrangement comprising all the elements as disclosed in claim 1, and as set forth above. However, Lehnert does not disclose: wherein one of the binders includes a hold down page that is equipped with a releasable latch that releasably anchors the page to one of the covers; wherein the latch comprises a latch strap carried by the one of the covers and a latch receiver carried by the hold down page; wherein the latch strap and receiver comprises a hook loop and fastener that releasably secures the page to a perimeter of one of the covers.

Zimbelman discloses in Figs. 1 and 2 below, a binder arrangement comprising: a hold down page (A) that is equipped with a releasable latch receiver (D) that releasably anchors one of the covers (3) to the hold down page through a latch strip (C), releasably securing the page to a perimeter of one of the covers. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lehnert's binder arrangement with a hold down page as taught by Zimbelman for providing storage separators.



13. Claims 6-9 and 21, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto in view of Lehnert, further in view of Zimbelman (D364,640). Lepisto as modified by Lehnert discloses a binder arrangement comprising all the elements as disclosed in claim 1, and as set forth above. However, Lepisto does not disclose: wherein one of the binders includes a hold down page that is equipped with a releasable latch that releasably anchors the page to one of the covers; wherein the latch comprises a latch strap carried by the one of the covers and a latch receiver carried by the hold down page; wherein the latch strap and receiver comprises a hook loop and fastener.

Zimbelman discloses in Figs. 1 and 2 above, a binder arrangement comprising: a hold down page (A) that is equipped with a releasable latch receiver (D) that releasably anchors one of the covers (B) to the hold down page through a latch strip (C). Therefore, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to modify Lepisto's and Lehnert's binder arrangement with a hold down page as taught by Zimbelman for providing storage separators.

14. Claims 1 and 10-12 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lehnert in view of Moor (6,079,528). Lehnert discloses a binder arrangement comprising all the elements as disclosed in claim 1, and as set forth above. However, Lehnert does not disclose: flexible sidewalls that include a skirt that extends along the side edges of each cover; one skirt releasably attached to the other skirt by a fastening arrangement that is elastically anchored to the spine by a stretchable gather.

Moor discloses in Fig. 1, a binder arrangement comprising: covers (12 and 14) connected to a spine (16) by a hinge; a binder; a case that includes a sidewall (20 and 22) that extends between side edges (shown in Fig. 4) of the covers that is releasably closed by a zipper (24); and a stretchable gather or connector (42) that attaches one end of the zipper to the spine (see Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lehnert's binder arrangement with a cover having flexible sidewalls, and skirts and a stretchable gather as taught by Moor for providing a binder which will be completely closed from outside elements.

15. Claims 1, 10-12, and 22-24, as best understood, are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto as modified by Lehnert, further in view of Moor. Lepisto as modified by Lehnert discloses a binder arrangement comprising all the elements as disclosed in claim 1, and as set forth above. However, Lepisto does not disclose: flexible sidewalls that include a skirt that extends along the side edges of each cover; one skirt releasably attached to the other skirt by a fastening arrangement that is elastically anchored to the spine by a stretchable gather.

Moor discloses in Fig. 1, a binder arrangement comprising: covers (12 and 14) connected to a spine (16) by a hinge; a binder; a case that includes a sidewall (20 and 22) that extends between side edges (shown in Fig. 4) of the covers that is releasably closed by a zipper (24); and a stretchable, elastic material gather or connector (42, flexible expansion panel) that attaches one end of the zipper to the spine (see Fig. 1). It is inherent that the flexible gather in the Moor reference is configured to allow extension or enlargement beyond limits of strain from other parts, and to resume its original shape when the deforming force is removed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lepisto's and Lehnert's binder arrangement with a cover having flexible sidewalls; and skirts and a stretchable gather as taught by Moor for providing a binder which will be completely closed from outside elements.

16. Claims 13-19, as best understood, are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto in view of Lehnert, further in view of Welch (6,209,917). Lehnert discloses a binder arrangement comprising all the elements as disclosed in claim 1, and as set forth above. However, Lehnert does not disclose: wherein each hinge comprises a plurality of scores slits formed in the interior surface of the board; wherein the board is comprised of a fibrous material, or kraftboard; wherein the scores define a region that is compressed to a thickness less than the surrounding thickness of the board; and wherein the spine can include any desirable number of scored hinges.

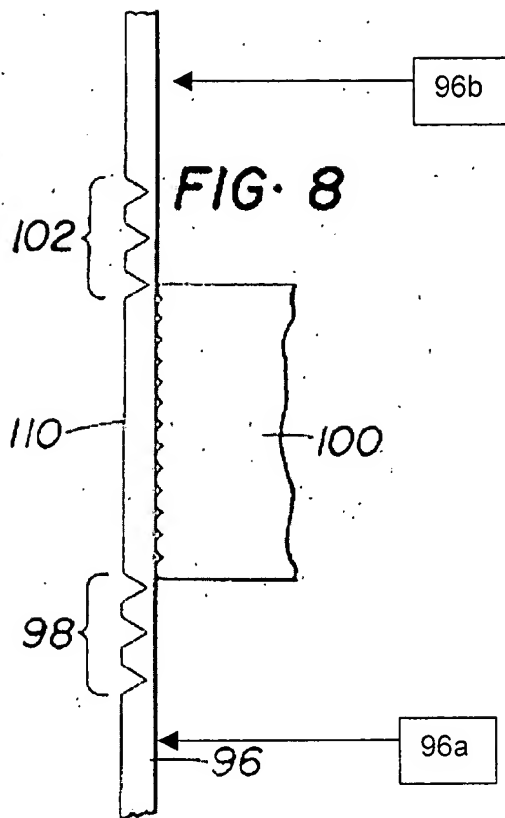
Welch discloses a binder arrangement comprising: wherein the spine and covers are defined by a board that includes spaced apart integrally formed hinges (45), wherein each hinge comprises a plurality of scores slits formed in the interior surface of the board (col. 6, lines 1-30, and seen in Fig. 6); wherein the board is comprised of a fibrous material, or kraftboard (abstract); wherein the scores define a region that is compressed to a thickness less than the

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surrounding thickness of the board (see Fig. 6); and wherein the spine can include any desirable number of scored hinges (col. 6, lines 15-20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lepisto's and Lehnert's binder arrangement for providing a flexible binder that can accommodate various thicknesses of enclosed bound material.

17. Claim 20, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehnert in view of Delaire et al. (3,454,694). Lehnert discloses a binder arrangement comprising: a first binder (4 on left side) carried by one of the covers (1); and a second binder (4 on right side) carried by the other cover (2); wherein the pair of covers are hingedly carried by the spine (3); wherein one of the binder can be spaced away from a centerline of the spine (also see Fig. 2). However, Lehnert does not disclose: a board of one-piece, unitary and homogenous construction that has a pair of hinges defined by a plurality of scores formed in a surface of the board with one of the hinges distinguishing the board into a first cover, a spine, and a second cover.

Delaire et al. discloses in Fig. 8 below and Fig. 9, a board (48) of one-piece, unitary and homogenous construction that has a pair of hinges (98 and 102) each defined by a plurality of scores (see Fig. 8) distinguishing the board (96) into a first cover (96a), spine (110) and a second cover (96b). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lehnert's binder with a one-piece cover board having a pair of scored hinges as taught by Delaire et al. for providing cover having increased pivoting flexibility.



### ***Response to Arguments***

18. Applicant's arguments filed 11 July 2007 have been fully considered but they are not persuasive.

19. Examiner respectfully disagrees with Applicant's assertion that the specification clearly and concisely provides proper support for the claimed limitation of the "binders being "permanently" fixed to the cover at a specific location". The specification does states on page 7 of 17, second paragraph, that the binders are held "by a plurality of spaced apart fasteners 72, 74, each of which "preferably" is a rivet", however, it is well-known in the art to have rivets that are not fixed and are removable. Therefore, since Applicant has not clearly and concisely

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disclosed the term "permanently", or how the binders are "permanently fixed" in the specification, the Examiner still deems this limitation as new matter.

20. Examiner respectfully disagrees with Applicant's assertion that the Lehnert reference does not teach the claimed limitation of "a first binder attached to a cover", "a second binder attached to a cover", and "the binders arranged offset to one another such that one binder is spaced farther away from a centerline of the spine". Lehnert clearly teaches in Figs. 1-4, a binder arrangement comprising: a pair of covers (1 and 2) each carried by an abutting spine (3); a first binder (4 on left side) permanently fixed and carried by one of the covers (1); and a second binder (4 on right side) permanently fixed and carried by the other cover (2); wherein one of the binders is offset from the other one of the binders such that the binders can be spaced away from a centerline of the spine (also see Fig. 2) at various positions (as noted and confirmed throughout Applicant's Remarks and specifically on page 10). Therefore, the specific arrangement claimed by Applicant is clearly taught by the Lehnert reference.

#### ***Conclusion***

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



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22. Any inquiry concerning the content of this communication from the examiner should be directed to Michael W. Talbot, whose telephone number is 571-272-4481. The examiner's office hours are typically 8:30am until 5:00pm, Monday through Friday. The examiner's supervisor, Mrs. Monica S. Carter, may be reached at 571-272-4475.

In order to reduce pendency and avoid potential delays, group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at FAX number 571-273-8300. This practice may be used for filling papers not requiring a fee. It may also be used for filing papers, which require a fee, by applicants who authorize charges to a USPTO deposit account. Please identify Examiner Michael W. Talbot of Art Unit 3722 at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MWT  
Examiner  
17 September 2007

  
MONICA CARTER  
SUPERVISORY PATENT EXAMINER